

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

HUMBERTO ROQUE BENAVIDES AND
HUMBERTO A. BENAVIDES A/N/F
M.E.B., MINOR
v.

TONY ANTHONY BALDRIDGE

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Civil Action No. 5:20-cv-4

DEFENDANT TONY ANTHONY BALDRIDGE'S NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendant Tony Anthony Baldrige ("Baldrige") files this Notice of Removal pursuant to 28 U.S.C. § 1446(a) and respectfully shows the following:

Procedural Background

1. On October 31, 2019, Plaintiffs filed their Original Petition against diverse Defendant Tony Anthony Baldrige ("Baldrige"), styled Cause No. 2019CVA002168D2; *Humberto Roque Benavides Humberto A. Benavides A/N/F M.E.B., Minor v. Tony Anthony Baldrige* in the District Court 111th Judicial District Court, Webb County, Texas.

Nature of the Suit

2. This lawsuit involves claims for personal injuries arising out of an automobile accident, which occurred on February 23, 2019. Plaintiffs claim Tony Anthony Baldrige was negligent in his handling of his vehicle. Plaintiffs seek actual damages including past, and future medical expenses, past, and future loss of earning capacity, past, and future physical impairment, and past, and pain and mental anguish.

Basis for Removal

3. Removal is proper under 28 U.S.C. §1332 because there is complete diversity of citizenship between the parties and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

4. There is complete diversity of citizenship between the parties. At the time, Baldrige was served with the citation on December 10, 2019, and as of the date of filing this Notice' Baldrige was and is a citizen of Oklahoma. Accordingly, Baldrige was and is considered an out-of-state citizen for diversity jurisdiction purposes.

5. Upon information and belief, Plaintiffs were citizens of Texas when they filed their Original Petition, and continue to be a citizen of Texas.

6. Further, this Court has diversity jurisdiction over this matter because the amount in controversy could exceed \$75,000.00, exclusive of interest and costs. Plaintiffs plead in their Original Petition for the recovery of damages "not to exceed \$75,000.00, exclusive of interest and costs." (See *Exhibit "A"* Plaintiffs' Original Petition, ¶7). However, Plaintiffs may, at any point up and up until the deadline to amend pleadings, amend their Petition and plead for the recovery of damages exceeding \$75,000.00. Moreover, Plaintiffs' counsel stated that he is not agreeable to sign a binding stipulation, because the damages may exceed \$75,000.00. (See *Exhibit "B"* Email from Defense Counsel to Plaintiff's Counsel memorializing the conversation).

The Removal is Procedurally Correct

7. Plaintiffs filed suit against Defendant Baldrige in state court on October 31, 2019. Defendant filed a general denial in state court on January 3, 2019. (See *Exhibit "A"* Defendant Tony Anthony Baldrige's Original Answer).

8. Removal is timely pursuant to 28 U.S.C. § 1446(b) and (c) and *Thompson v. Deutsche Bank Nat. Trust Co.*, 775 F.3d 298 (5th Cir. 2014). In *Thompson*, the Fifth Circuit held that a defendant's right to removal under 28 U.S.C. § 1446(b) and (c) runs from the date it is formally served with process. Here, Baldridge was served on December 10, 2019.

9. Venue is proper in this district under 28 U.S.C. § 1446(a) because this district and division embrace the place in which the removed action has been pending and because a substantial part of the events giving rise to Plaintiffs' claims allegedly occurred in this district.

10. Pursuant to 28 U.S.C. § 1446(a), all pleadings, process, orders, and all other filings in the state court action are attached to this notice.

11. Pursuant to 28 U.S.C. § 1446(d), promptly after Defendant Baldridge files this Notice, written notice of filing of this Notice of Removal will be given to Plaintiffs, the adverse parties.

12. Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of this Notice will be filed with the Clerk of the 111th Judicial District Court of Webb County, Texas, promptly after Defendant Baldridge files this Notice.

WHEREFORE, Defendant Baldridge requests that this action be removed from the 111th Judicial District Court of Webb County, Texas to the United States District Court for Southern District of Texas, Laredo Division, and that this Court enter such further orders as may be necessary and appropriate.

WHEREFORE, Defendant Baldridge requests that this action be removed from the 111th Judicial District Court of Webb County, Texas to the United States District Court for Southern District of Texas, Laredo Division, and that this Court enter such further orders as may be necessary and appropriate.

Respectfully submitted,

LINDOW ▪ STEPHENS ▪ TREAT LLP

By: 
Mark A. Lindow
Southern District Bar No. 12777
One Riverwalk Place
700 N. St. Mary's Street, Suite 1700
San Antonio, Texas 78205
(210) 227-2200 (telephone)
(210) 227-4602 (facsimile)
mlindow@lstlaw.com

Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Defendant Tony Anthony Baldrige's Notice of Removal was served by facsimile and/or electronic service on the 9th day of **January, 2020**, upon the following:

Gene S. Hagood
Joel Joseph
Jessie J. Ormand
Ryan King
LAW OFFICES OF GENE S. HAGOOD
1520 E. Highway 6
Alvin, Texas 77511
firm@h-nlaw.com
joel@h-nlaw.com


Mark A. Lindow

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION**

**HUMBERTO ROQUE BENAVIDES AND
HUMBERTO A. BENAVIDES A/N/F
M.E.B., MINOR**

v.

TONY ANTHONY BALDRIDGE

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Civil Action No. _____

INDEX OF MATTERS BEING FILED

General Insurance Company of America's Notice of Removal.

- Exhibit A: Copies of all process, pleadings, orders and the docket sheet on file in the state court lawsuit.
- Exhibit B: Email from Defense Counsel to Plaintiff's Counsel memorializing the conversation
- Exhibit C: A list of counsel of record.

Exhibit A

1/9/2020

publicaccess.webbcountytx.gov/PublicAccess/CaseDetail.aspx?CaseID=825840

Skip to Main Content Logout My Account Search Menu New Civil Search Refine Search Back

Location : All Courts Help

REGISTER OF ACTIONS**CASE No. 2019CVA002168D2****HUMBERTO ROQUE BENAVIDES, HUMBERTO A BENAVIDES A/N/F M.E.B.,
A MINOR VS. TONY ANTHONY BALDRIDGE**§
§
§
§Case Type: **Injury or Damage - Motor
Vehicle (DC)**
Subtype: **Motor Vehicle Accident (DC)**
Date Filed: **10/31/2019**
Location: **--111th District Court****PARTY INFORMATION**

| | | |
|------------------|----------------------------------|--|
| Defendant | BALDRIDGE, TONY ANTHONY | Attorneys KATARZYNA WIKTORIA DANIEC <i>Retained</i> 210-227-2200(W) |
| Plaintiff | **Confidential** | GENE S HAGOOD <i>Retained</i> 281-331-5757(W) |
| Plaintiff | BENAVIDES, HUMBERTO ROQUE | GENE S HAGOOD <i>Retained</i> 281-331-5757(W) |

EVENTS & ORDERS OF THE COURT

| | | | |
|------------|---|--------------------|--------------------------|
| | OTHER EVENTS AND HEARINGS | | |
| 10/31/2019 | Civil Case Filed (OCA) | | |
| 10/31/2019 | Original Petition <i>PLAINTIFF'S ORIGINAL PETITION</i> | | |
| 10/31/2019 | Jury Demand <i>JURY DEMAND PAID BY ATTORNEY GENE S HAGOOD.</i> | | |
| 11/04/2019 | Calendar Call <i>CALENDAR CALL FAXED TO ATTORNEY GENE S HAGOOD. (DGC)</i> | | |
| 11/04/2019 | Citation-Issuance <i>(3) CITATIONS ISSUED AS TO TONY ANTHONY BALDRIDGE BY SERVING TEXAS SECRETARY OF STATE. (PLACED IN PRIVATE SERVER BASKET READY FOR PICK UP).</i> | | |
| 11/04/2019 | Citation BALDRIDGE, TONY ANTHONY | Served Returned | 12/10/2019 12/10/2019 |
| 12/10/2019 | Citation Return-Executed <i>CITATION RETURNED EXECUTED AS TO TONY ANTHONY BALDRIDGE BY SERVING THE SECRETARY OF STATE. DATE OF SERVICE 12/10/19</i> | | |
| 01/03/2020 | Answer-Defendant <i>DEFENDANT TONY ANTHONY BALDRIDGE'S ORIGINAL ANSWER</i> | | |
| 01/03/2020 | Proposed Order <i>PROPOSED PRE-TRIAL GUIDELINE ORDER RECEIVED; SENT TO COURT COORDINATOR</i> | | |
| 01/07/2020 | Calendar Call (11:00 AM) (Judicial Officer Notzon, Monica Z.) | | |
| 01/09/2020 | Notice-Miscellaneous <i>COURT ADVISORY AND NOTICE RE: SERVICE OF DOCUMENTS AND DATA.</i> | | |
| 01/09/2020 | Order-Pretrial Guideline Order <i>PRE-TRIAL GUIDELINE ORDER SIGNED 01/07/20. PRE-TRIAL: 09/01/20 AT 9:00 AM. TRIAL: 09/14/20 AT 8:00 AM. COPIES SENT TO COUNSEL OF RECORD BY COURT STAFF.</i> | | |
| 09/01/2020 | Pre-Trial Hearing (9:00 AM) (Judicial Officer Notzon, Monica Z.) | | |
| 09/14/2020 | Jury Trial (8:00 AM) (Judicial Officer Notzon, Monica Z.) | | |

Secretary of State
Service of Process
P.O. Box 12079
Austin, Texas 78711-2079



7190 1046 4701 0112 9366

Return Receipt (Electronic)

2020312365-1

Tony Anthony Baldridge
15521 Dons Rd
Oklahoma City, OK 73165

CUT / FOLD HERE

The State of Texas



Service of Process
P.O. Box 12079
Austin, Texas 78711-2079

Phone: 512-463-5560
Fax: 512-463-0873
Dial 7-1-1 For Relay Services
www.sos.texas.gov

Ruth R. Hughs
Secretary of State

December 17, 2019

Tony Anthony Baldrige
15521 Dons Rd
Oklahoma City, OK 73165

2020-312365-1

Include reference number
in all correspondence

RE: Humberto Roque Benavides and Humberto A Benavides anf M.E.B., minor Vs Tony
Anthony Baldrige
111th Judicial District Court Of Webb County, Texas
Cause No. 2019CVA002168D2

Dear Sir/Madam,

Pursuant to the Laws of Texas, we forward herewith by CERTIFIED MAIL, return receipt requested, a copy of the process received by the Secretary of State of the State of Texas on December 10, 2019.

CERTIFIED MAIL #71901046470101129366

Refer correspondence to:

Gene S. Hagood
Law Offices of Gene S. Hagood
1520 E. Highway 6
Alvin, TX 77511

Sincerely,

Service of Process
Government Filings
512-463-1662
GF/wj
Enclosure

SERVE
2019CVA002168D2

CITATION
PLAINTIFFS' ORIGINAL PETITION

THE STATE OF TEXAS
COUNTY OF WEBB

NOTICE TO THE DEFENDANT: "YOU HAVE BEEN SUED. YOU MAY EMPLOY AN ATTORNEY. IF YOU OR YOUR ATTORNEY DO NOT FILE A WRITTEN ANSWER WITH THE CLERK WHO ISSUED THIS CITATION BY 10:00 A.M. ON THE MONDAY NEXT FOLLOWING THE EXPIRATION OF TWENTY DAYS AFTER YOU WERE SERVED THIS CITATION AND PETITION, A DEFAULT JUDGMENT MAY BE TAKEN AGAINST YOU."

BY SERVING

TO: TONY ANTHONY BALDRIDGE
15521 DONS RD
OKLAHOMA CITY OK 73165

SECRETARY OF STATE
FOR THE STATE OF TEXAS
1019 BRAZOS STREET
AUSTIN, TX 78701

DEFENDANT, IN THE HEREINAFTER STYLED AND NUMBERED CAUSE, YOU ARE HEREBY COMMANDED TO APPEAR BEFORE THE 111th District Court of Webb County, Texas, to be held at the said courthouse of said county in the city of Laredo, Webb County, Texas, by filing a written answer to the Petition of Plaintiff at or before 10:00 O'CLOCK A.M. of the Monday next after the expiration of 20 days after the date of service thereof, a copy of which accompanies this citation, in the Cause #: 2019CVA002168D2, styled:

HUMBERTO ROQUE BENAVIDES AND HUMBERTO A BENAVIDES A/N/F M.E.B, A
MINOR, PLAINTIFF

VS.

TONY ANTHONY BALDRIDGE, DEFENDANT

Said Plaintiff's Petition was filed on 10/31/2019 in said court by:

GENE S HAGOOD, ATTORNEY FOR PLAINTIFF
1520 E HIGHWAY 6
ALVIN TX 77511

WITNESS ESTHER DEGOLLADO, DISTRICT CLERK OF WEBB COUNTY, TEXAS,
Issued and given under my hand and seal of said court at office,
on this the 4th day of November, 2019.

C L E R K O F C O U R T

CALENDAR CALL HEARING SET
FOR 1/7/2020 @ 11:00AM

ESTHER DEGOLLADO
WEBB COUNTY DISTRICT CLERK
P.O. BOX 667
LAREDO, TX 78042

312365

BY:

Sara Lopez



2019CVA002168D2

OFFICER'S RETURN

Came to hand on the _____ day of _____, 2019 at
 _____ O'CLOCK _____ .M. Executed at
 _____, within the COUNTY of _____
 at _____ O'CLOCK _____ .M. on the _____ day of
 _____, 2019, by delivering to the within named **TONY**
ANTHONY BALDRIDGE, each, in person, a true copy of this citation
 together with the accompanying copy of the petition, having
 first attached such copy of such petition to such copy of
 citation and endorsed on such copy of citation the date of
 delivery.

The distance actually travelled by me in serving such process
 was _____ miles, and my fees are as follows:

Total Fee for serving this citation \$ _____.

To certify which, witness my hand officially.

 SHERIFF, CONSTABLE

 COUNTY, TEXAS

BY _____
 DEPUTY

THE STATE OF TEXAS }
 COUNTY OF WEBB }

Before me, the undersigned authority, on this day personally
 appeared _____, who after being duly
 sworn, upon oath said that a notice, of which the above is a
 true copy, was by him/her delivered to

_____ on the
 _____ day of _____.

SWORN TO AND SUBSCRIBED BEFORE ME on the _____ day of
 _____, _____, to certify which witness my hand and
 seal of office.

 NOTARY PUBLIC
 MY COMMISSION EXPIRES

Filed
10/31/2019 9:25 AM
Esther Degollado
District Clerk
Webb District
Dyana Cuellar
2019CVA002168D2

NO. 2019CVA002168D2

| | | |
|------------------------------|---|---|
| HUMBERTO ROQUE BENAVIDES AND | § | IN THE DISTRICT COURT OF |
| HUMBERTO A. BENAVIDES A/N/F | § | |
| M.E.B., MINOR | § | |
| | § | |
| VS. | § | WEBB COUNTY, TEXAS |
| | § | |
| TONY ANTHONY BALDRIDGE | § | <u>IIIrd</u> JUDICIAL DISTRICT |

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW Humberto Roque Benavides and Humberto A. Benavides a/n/f M.E.B., minor, hereinafter referred to as Plaintiffs, complaining of Tony Anthony Baldrige, hereinafter referred to as Defendant, and would respectfully show to the Court as follows:

1. Discovery is intended to be conducted under Level 3, Texas Rules of Civil Procedure, Rule 190.4.
2. Plaintiffs are resident citizens of Laredo, Webb County, Texas.
3. Defendant, Tony Anthony Baldrige, is an individual, a resident and citizen of the State of Oklahoma. Therefore, this Defendant may be served with process by forwarding citation to the Secretary of State for the State of Texas, 1019 Brazos Street, Austin, Texas 78701, pursuant to Texas Civil Practice & Remedies Code Ann., § 17.044, who should then forward the citation to the Defendant at his residence address, to-wit: 15521 Dons Rd, Oklahoma City, OK 73165.
4. This Court has jurisdiction and venue of this case because this cause of action is for negligence and the subject matter of this lawsuit and the amount in controversy are all within the jurisdictional limits of this Court. Further, this Court has venue of this case because all or a substantial portion of the acts or events giving rise to

the cause of action and the acts and/or omissions of negligence that proximately caused the occurrence in question and the injuries and damages sustained by your Plaintiffs occurred within the territorial limits of Webb County, State of Texas.

5. It has become necessary for your Plaintiffs to file this cause of action to recover compensatory damages for personal injuries received as a result of a motor vehicle collision that occurred on or about February 23, 2019. On such date, Plaintiff, Humberto Roque Benavides was traveling on Bob Bullock Loop, when Defendant, Tony Anthony Baldridge, traveling on IH 35, failed to stop at a red light and struck Plaintiffs' vehicle in the intersection. The minor Plaintiff, M.E.B., was a passenger in the Benavides vehicle. At all times material, Defendant, Tony Anthony Baldridge, is thought to be the owner of the vehicle he was driving at the time and on the occasion in question. Discovery is at its infancy in this case. Further information and evidence on these issues are, at this time, within the knowledge of Defendant and not Plaintiffs. However, this information can and will be obtained through legal discovery efforts that may possibly require additional or different allegations. Plaintiffs reserve the right to amend and/or supplement as allowed by the Texas Rules of Civil Procedure.

6. At the time and on the occasion in question, the Defendant, Tony Anthony Baldridge, was negligent in the operation of the vehicle he was driving in one or more of the following particulars:

- a. Failure to keep a proper lookout;
- b. Failure to control speed;
- c. Failure to timely apply brakes;
- d. Failure to yield the right of way;

- e. Failure to stop for a red signal light (negligence per se);
- f. Distracted driving; and
- g. Failure to control his vehicle to avoid a collision

Such acts and/or omissions constitute negligence and negligence per se and such negligence, singularly or in combination and as the evidence will reveal as applicable, proximately caused the occurrence in question and the injuries and damages sustained by your Plaintiffs. Discovery is at its infancy in this case. Further information and evidence on these issues are, at this time, within the knowledge of Defendant and not Plaintiffs. However, this information can and will be obtained through legal discovery efforts that may possibly require additional or different allegations. Plaintiffs reserve the right to amend and/or supplement as allowed by the Texas Rules of Civil Procedure.

7. As a result of the acts and/or omissions that caused the injuries and damages referenced above, your Plaintiff, Humberto Roque Benavides, alleges that he sustained physical injuries and damages from which he now suffers and in all probability will continue to suffer into the future in terms of physical pain, mental anguish, physical impairment, loss of earning capacity and the incurring of medical and hospital bills and expenses in the past and in the future. Plaintiff, Humberto Roque Benavides, sues for these damages in an amount in excess of the minimum jurisdictional limits of the Court subject, however, to the following: Plaintiff alleges that in this lawsuit he will not accept or recover compensatory damages in excess of \$75,000.00, exclusive of interest and cost. Thus, Plaintiff stipulates and alleges in this lawsuit that it is a legal certainty that the compensatory damages he will accept and recover in the lawsuit do not exceed \$75,000.00, exclusive of interest and

costs. The Plaintiff also sues for pre-judgment and post-judgment interest on the items of damages allowed by law.

8. As a direct and proximate result of the negligence of the Defendant referenced above, your minor Plaintiff, M.E.B., through her Next Friend, alleges that she sustained physical injuries and damages from which they now suffer and in all probability will continue to suffer into the future in terms of physical pain, mental anguish, physical impairment, and the incurring of medical and hospital bills and expenses in the past and in the future (through her next friend until age 18, thereafter in her own right as allowed by law). Plaintiff sues for these damages in an amount in excess of the minimum jurisdictional limits of the Court subject, however, to the following: Plaintiff alleges that in this lawsuit she will not accept or recover compensatory damages in excess of \$75,000.00, exclusive of interest and cost. Thus, Plaintiff stipulates and alleges in this lawsuit that it is a legal certainty that the compensatory damages she will accept and recover in the lawsuit do not exceed \$75,000.00, exclusive of interest and costs. The Plaintiff also sues for pre-judgment and post-judgment interest on the items of damages allowed by law.

9. Plaintiffs demand a trial by jury on this case.

WHEREFORE PREMISES CONSIDERED, Plaintiffs pray that the Defendant be cited in terms of law to appear and answer herein and that upon final hearing Plaintiffs do have and recover of, from and against the Defendant for their compensatory damages, pre- and post-judgment interest, costs of Court, trial by jury and for such other and further relief, in law and in equity to which Plaintiffs may show themselves justly entitled.

Respectfully submitted,
LAW OFFICES OF GENE S. HAGOOD
1520 E. Highway 6
Alvin, Texas 77511

(281)331-5757
Fax: (281)331-1105
*E-Service Email: firm@h-nlaw.com

BY: /s/ Gene S. Hagood
GENE S. HAGOOD
SBN 08698400
JESSIE J. ORMAND
SBN 24098209
RYAN KING
SBN 24073263
Attorneys for Plaintiffs

*E-SERVED DOCUMENTS ARE ONLY ACCEPTED AT THE ABOVE DESIGNATED E-SERVICE EMAIL ADDRESS. SERVICE ON ANY OTHER EMAIL ADDRESS WILL BE CONSIDERED INVALID.

Filed
1/3/2020 2:49 PM
Esther Degollado
District Clerk
Webb District
Ana Byham
2019CVA002168D2

CAUSE NO. 2019CVA002168D2

| | | |
|-------------------------------------|---|---|
| HUMBERTO ROQUE BENAVIDES AND | § | IN THE DISTRICT COURT |
| HUMBERTO A. BENAVIDES A/N/F | § | |
| M.E.B., MINOR | § | |
| Plaintiff, | § | |
| | § | |
| v. | § | 111TH JUDICIAL DISTRICT |
| | § | |
| TONY ANTHONY BALDRIDGE | § | |
| Defendant. | § | WEBB COUNTY, TEXAS |

DEFENDANT TONY ANTHONY BALDRIDGE'S ORIGINAL ANSWER

Defendant, Tony Anthony Baldrige files this original answer to Plaintiffs' Original Petition, and would respectfully show the following:

I. GENERAL DENIAL

Defendant generally denies each and every allegation contained in Plaintiff's Original Petition pursuant to Texas Rule of Civil Procedure 92, and demands strict proof thereof by a preponderance of the credible evidence.

II. AFFIRMATIVE DEFENSES

Defendant alleges that in the unlikely event Plaintiff is found to be entitled to any damages in this matter, which is denied, Plaintiff is not entitled to recover prejudgment interest on any future damages.

Defendant alleges any prejudgment interest recoverable is limited in accordance with the terms of Texas Finance Code Annotated § 304.101 *et. seq.*

Defendant alleges any post judgment interest recoverable is limited in accordance with Texas Finance Code Annotated § 304.003(c).

Defendant alleges that to the extent Plaintiff seeks recovery for medical bills, expenses, and services that were incurred, but were never charged to Plaintiff, or were never paid or incurred because it exceeded the amount authorized by Medicaid, private insurer or any other entity, Defendant asserts Plaintiff is not entitled to recover those amounts. Similarly, Defendant alleges that to the extent any healthcare provider has written off the charges for medical care, then Defendant is entitled to a credit or offset for the total amount of write-offs or expenditures incurred and paid by others accruing to Plaintiffs pursuant to Texas Civil Practice and Remedies Code § 41.0105.

III. JURY DEMAND

Defendant demands a jury trial and tenders the appropriate fee in accordance with the Texas rules of Civil Procedure and the Local Rules of this jurisdiction.

IV. SPECIAL EXCEPTIONS

Defendant specially excepts to Plaintiff's Original Petition. Specifically, Defendant specially excepts to Plaintiff's statement of damages. Plaintiff's Original Petition fails to provide a statement that the damages sought are within the jurisdictional limit of the court and fails to identify an appropriate range of damages required under Rule 47 of the Texas Rules of Civil Procedure. Defendant asks that Plaintiff voluntarily amend the Petition to provide a statement that the damages sought are within the jurisdictional limit of the court and identify an acceptable range of damages, or the Court to enter an Order requiring Plaintiff to do so. In the event Plaintiff pleads an acceptable range of damages but fails to identify a maximum amount claimed, pursuant to Rule 47(d),¹ Defendant asks that the Court require Plaintiff to amend the statement of damages.

¹ "[T]hat upon special exception the court shall require the pleader to amend so as to specific the maximum amount claimed." TEX. R. CIV. P. 47(d) (emphasis added).

V. 193.7 NOTICE

Pursuant to the Texas Rule of Civil Procedure 193.7, Defendant provides all parties notice that the production of any document in response to written discovery authenticates that document for use against that party in any pretrial proceeding or at trial.

VI. REQUESTS FOR DISCLOSURE

Pursuant to Texas Rules of Civil Procedure, Plaintiffs are requested to disclose and serve, within thirty (30) days of service of the Request, the information or material described in Rule 194.2(a) - (l). Plaintiffs shall supplement all disclosures pursuant to TEX. R. CIV. P. 193.5.

VII. CONCLUSION

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully prays for a judgment that Plaintiffs take nothing, that Defendant recover all his costs, and that Defendant be granted all other relief, at law and in equity, to which he may be justly entitled.

Respectfully submitted,

LINDOW ▪ STEPHENS ▪ TREAT LLP


By: 
Katarzyna "Kasia" Daniec
State Bar No. 24074109
One Riverwalk Place
700 N. St. Mary's Street, Suite 1700
San Antonio, Texas 78205
(210) 227-2200 (telephone)
(210) 227-4602 (facsimile)
kdaniec@lstlaw.com

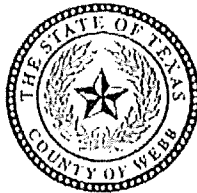
Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Defendant Tony Anthony Baldrige's Original Answer was served by facsimile and/or electronic service on the 3rd day of **January, 2020**, upon the following:

Gene S. Hagood
Jessie J. Ormand
Ryan King
LAW OFFICES OF GENE S. HAGOOD
1520 E. Highway 6
Alvin, Texas 77511
firm@h-nlaw.com


Katarzyna "Kasia" Daniec



ABEL SOLIZ
CIVIL COURT COORDINATOR
(956)523-4226

MONICA Z. NOTZON
JUDGE, 111TH DISTRICT COURT
1110 VICTORIA SUITE #301 3RD FLOOR
LAREDO, TEXAS 78040
OFFICE (956)523-4230
FAX (956)523-5088

FERNANDO RAMOS
BAILIFF
(956)523-4227

November 04, 2019

CAUSE NO.: 2019CVA002168D2

STYLE: HUMBERTO ROQUE BENAVIDES; HUMBERTO A
BENAVIDES A/N/F M.E.B. A MINOR
VS
TONY ANTHONY BALDRIDGE

NOTICE OF CALENDAR CALL

Please take notice that this case is set for Calendar Call on 01/07/2020
at 11:00 AM at the 111th District Court, 3rd Floor, Webb County Justice Center.

All Calendar Call hearings will be in open Court and on the record before the Honorable Judge Monica Z. Notzon. Your presence is **MANDATORY** unless Counsel for Plaintiff(s) and Defendant(s) have in place a pre-trial guideline order with both Counsel and Judge's signatures prior to calendar call date. This guideline order should have all appropriate dates including pre-trial, jury selection and all deadlines.

Counsel for Plaintiff(s) please note that if you do not appear for calendar call your case may be dismissed for lack of prosecution.

Counsel for Defendant(s) please note that if you do not appear for calendar call, a pre-trial guideline order may be entered with or without your approval and/or signature.

If there are any questions regarding this matter please feel free to call our office at any time.

Abel Soliz

Abel Soliz
Civil Court Coordinator
111th District Court

A handwritten signature in black ink, appearing to be "AS", written over the printed name and title.

A handwritten signature in black ink, appearing to be "F. Ramos", written over a circular stamp that contains the word "RECEIVED".

2020-01-08 12:01

111th DISTRICT COURT 9565235088 >>

P 1/3



MONICA Z. NOTZON

State District Judge

111th Judicial District Court

1110 Victoria Street, Ste. 301

Laredo, Texas 78040

(956) 523-4230 (956) 523-5088

To: COUNSEL

From: ABEL SOLIZ

Date: 01/06/20

Pages: 3

2019CVA002168D2

ATTORNEY RYAN KING (281) 331-1105

ATTORNEY KATARZYNA WIKTORIA DANIEC (210) 227-4602

2020-01-08 12:01

111th DISTRICT COURT 9565235088 >>

P 2/3

CAUSE NO. 2019CV00002168 D2Humberto Roque Benavides
et al.§
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IN THE DISTRICT COURT OF

VS.

WEBB COUNTY, TEXAS

Tony Anthony Baldridge111TH JUDICIAL DISTRICTLevel One: _____ Level Two: _____ Level Three: ✓

Jury Trial/ Trial Date: 14 day of September, 2020 at 8:00 a.m.
 Estimated time/duration of trial: 2-3 days Final Pre-Trial Conference Date:
1 day of September, 2020 at 9:00 a.m. Plaintiffs and Defendants
 Motions in Limine, Jury Questions, and Instructions shall be filed by the Final Pre-Trial
 Conference Date. All Plaintiffs and Defendants Exhibits and Witness Lists must be presented
 for inspection at the Final Pre-Trial Conference and the list must be provided to opposing
 counsel at the Final Pre-Trial. A prepared Charge of the Court, Witness List, Exhibit List
and Motions in Limine shall be filed no later than 5:00 p.m. on the date of Pre-Trial.
Anything not filed timely or without leave of court will not be considered at Trial.

Plaintiff's Amended Pleadings will be due: June 19, 2020Defendant's Amended Pleadings will be due: July 3, 2020Deadline for Plaintiff to designate testifying experts: May 15, 2020Deadline for Defendant to designate testifying experts: June 15, 2020

Deadline to conduct discovery will be 30 days prior to trial unless the case is a divorce case. If
 the case is a divorce case, discovery may be conducted up to the date of trial. August 14, 2020

Deadline for Alternate Dispute Resolution: August 14, 2020
 MEDIATION SHALL BE ORDERED BY THE COURT IN ALL CONTESTED CASES AND ONLY THE
 COURT WILL APPOINT THE MEDIATOR.

Deadline for Robinson Motion to Strike Expert Witness for lack of foundation for Opinion:
July 15, 2020. Must be at least 60 days before trial.

Motion for Summary Judgments need to be filed before: July 31, 2020
 Must be at least 45 days before Pre-Trial.

Interpreter: Yes/ No

Important: Court Reporter needs to know if a Daily Copy is needed: _____

2020-01-08 12:02

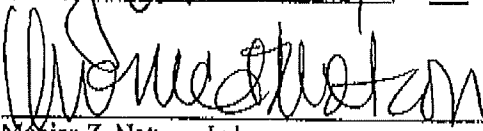
111th DISTRICT COURT 9565235088 >>

P 3/3

If the case is a Level Three case, the Parties may enter into a Discovery Control Plan in accordance with Rule 190.4 of the Texas rules of Civil Procedure. In addition, either Party may request one or more Pre-Trial conferences in accordance with Rules 166 and 190.4 of the Texas Rules of Civil Procedure. The request for the Pre-Trial Conference must be filed no later than 90 days prior to the Trial date.

The Plaintiff(s) and the Defendant(s) acknowledge that this Pre-Trial Guideline Order shall constitute a binding agreement between the Parties as defined by Rule 11 of the Texas Rules of Civil Procedure and shall serve as modification of the discovery procedure as provided for in Rule 191.1 of the Texas Rules of Civil Procedure. Except as to the Trial date, the parties may, with approval of the Court, modify the deadlines set forth in this Order by an agreement that complies with Rule 11 of the Texas Rules of Civil Procedure.

Signed and approved the 7th day of January, 2020


Monica Z. Notzon, Judge
111th Judicial District Court

Ryan King
Counsel for Plaintiff(s)
Print Name: Ryan King
Telephone No. 281-331-5757
Fax No. 281-331-1105

Wojcik
Counsel for Defendant(s)
Print Name: KATARZYNA DANIEC
Telephone No. 210-227-2200
Fax No. 210-227-4602

Counsel for Plaintiff(s)
Print Name: _____
Telephone No. _____
Fax No. _____

Counsel for Defendant(s)
Print Name: _____
Telephone No. 210-227-2200
Fax No. _____

Counsel for Plaintiff(s)
Print Name: _____
Telephone No. _____
Fax No. _____

Counsel for Defendant(s)
Print Name: _____
Telephone No. _____
Fax No. _____

Counsel for Plaintiff(s)
Print Name: _____
Telephone No. _____
Fax No. _____

Counsel for Defendant(s)
Print Name: _____
Telephone No. _____
Fax No. _____

NO. 2019CVA002168 D2

| | | |
|------------------------------|---|-------------------------------------|
| HUMBERTO ROQUE BENAVIDES AND | § | IN THE DISTRICT COURT OF |
| HUMBERTO A. BENAVIDES A/N/F | § | |
| M.E.B., MINOR | § | |
| | § | |
| VS. | § | WEBB COUNTY, TEXAS |
| | § | |
| TONY ANTHONY BALDRIDGE | § | 111 TH JUDICIAL DISTRICT |

COURT ADVISORY AND NOTICE RE: SERVICE OF DOCUMENTS AND DATA

The Party Plaintiffs represented by the undersigned counsel's law firm in this case file and serve this referenced Court Advisory and Notice Re: Service of Documents and Data to provide clarity, avoid confusion and promote efficiency in the handling of this case by identifying the correct and only means by which service of documents and data to the undersigned counsel/law firm should be accomplished.

Service of documents and data pursuant to TCRP 21, 21a and all discovery material pursuant to TCRP 190 through 215, inclusive, must be served on the below counsel by any of the following means:

- a) **Service by Fascimile:** to the attorney in charge at the following fax number: 281-331-1105; or
- b) **Service by Email or Efiling:** to the attorney in charge at the following email address: firm@h-nlaw.com. If service is by email or eservice, every attachment must be in pdf format; or
- c) **Service by Common Carrier:** to the attorney in charge at the following address: Law Offices of Gene S. Hagood, 1520 E. Highway 6, Alvin, Texas 77511.

NOTICE: This law firm does not accept service of documents or data (to include but not limited to discovery responses) through any type repository requiring this law firm to sign-up, accept terms to gain access or is otherwise remote access/off site for this law firm or is of limited/temporary time limited, including, for example, internal company, law firm or insurance company portals.

This law firm accepts service of documents and data through its eService email of firm@h-nlaw.com, Dropbox, fascimile to 281-331-1105 (please do not fax photographs), CDs, thumb/flash drives or through the mail.

This Advisory and Notice does not obviate or supercede normal correspondence and communication (fax, email or common carrier) between or among counsel, their staff or associates to carry on the usual business and cooperative efforts in the handling of this case (including, e.g. scheduling matters, discovery disputes, etc.); rather, it clarifies the correct and only means the undersigned counsel/law firm will accept formal/legal service of the identified documents and data for this case.

Respectfully submitted,
LAW OFFICES OF GENE S. HAGOOD
1520 E. Highway 6
Alvin, Texas 77511
(281) 331-5757
Fax: (281) 331-1105
*E-Service Email: firm@h-nlaw.com

BY: */s/ Joel Joseph*
GENE S. HAGOOD
SBN 08698400
JESSIE J. ORMAND
SBN 24098209
RYAN KING
SBN 24073263
JOEL JOSEPH
SBN 24106153
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify pursuant to Rule 21, T.R.C.P., that on this the 9th day of January, 2020, a true and correct copy of the foregoing instrument was forwarded to all counsel of record, by facsimile and/or electronic transmission as follows:

Ms. Katarzyna "Kasiaq" Daniec, Lindow, Stephens & Treat, LLP, 700 N. St. Mary's St., Suite 1700, San Antonio, TX 78205

/s/ Joel Joseph
JOEL JOSEPH

*E-Served Documents Are Only Accepted At The Above Designated E-Service Email Address. Service On Any Other Email Address Will Be Considered Invalid.

Exhibit B

Mary Tamez

From: Joel Joseph <joel@h-nlaw.com>
Sent: Thursday, January 9, 2020 11:07 AM
To: Cathy Tillinger; Ryan King; Kasia Daniec
Cc: Gene S. Hagood
Subject: Re: FW: Humberto Roque Benavides Humberto A. Benavides A/N/F M.E.B., Minor v. Tony Anthony Baldrige

I received the email you sent to Cathy with my office. It appears you misunderstood me and are purposely ignoring the allegations in Plaintiff's Petition in an effort to improperly remove this case to Federal court. As clearly stated in Plaintiff's Petition, "Plaintiff alleges that in this lawsuit he will not accept or recover compensatory damages in excess of \$75,000.00, exclusive of interest and cost. Thus, Plaintiff stipulates and alleges in this lawsuit that it is a legal certainty that the compensatory damages he will accept and recover in the lawsuit do not exceed \$75,000.00, exclusive of interest and costs." Plaintiff's damages in this case will not exceed \$75,000.00. Please include this email as part of your court filing so that there is no misrepresentation to the court regarding Plaintiff's allegations.

On Thu, Jan 9, 2020 at 10:49 AM Cathy Tillinger <cathy@h-nlaw.com> wrote:

From: Kasia Daniec [mailto:KDaniec@lstlaw.com]
Sent: Thursday, January 09, 2020 10:34 AM
To: firm@h-nlaw.com; cathy@h-nlaw.com
Cc: Mary Tamez <mtamez@lstlaw.com>; Laurie Johnson <ljohnson@lstlaw.com>
Subject: Humberto Roque Benavides Humberto A. Benavides A/N/F M.E.B., Minor v. Tony Anthony Baldrige

Cathy,

Please forward this communication to Mr. Hagood and Mr. Joel Joseph as they have not provided us with their email addresses.

Joel,

Per our telephonic conversation with you yesterday, you are **not** in agreement to sign the binding stipulation capping the damages to not exceed \$75,000.00 because, as you have stated, the damages may exceed that figure. I will be attaching this email to my court filings.

Sincerely,

Kasia Daniec

Attorney at Law
LINDOW ▪ STEPHENS ▪ TREAT LLP

ONE RIVERWALK PLACE

700 N St. Mary's Street, Suite 1700

San Antonio, Texas 78205

Telephone: (210) 227-2200 Ext. 223

Facsimile: (210) 227-4602

Email: kdaniec@lstlaw.com



**LINDOW
STEPHENS
TREAT LLP**

THIS EMAIL TRANSMISSION IS COVERED BY THE ELECTRONIC COMMUNICATIONS PRIVACY ACT, 18 U.S.C. SEC. 2510-2521 AND IS LEGALLY PRIVILEGED, CONFIDENTIAL AND PROTECTED FROM DISCLOSURE. THIS MESSAGE AND THE DOCUMENTS ATTACHED TO IT, IF ANY, ARE INTENDED ONLY FOR THE USE OF THE ADDRESSEE AND MAY CONTAIN **ATTORNEY WORK PRODUCT**. IF YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE DELETE ALL ELECTRONIC COPIES OF THE MESSAGE AND ITS ATTACHMENTS, DESTROY ANY HARD COPIES THAT YOU MAY HAVE CREATED, AND NOTIFY ME IMMEDIATELY AT (210) 227-2200. THANK YOU.

Exhibit C

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

HUMBERTO ROQUE BENAVIDES AND
HUMBERTO A. BENAVIDES A/N/F
M.E.B., MINOR
v.

TONY ANTHONY BALDRIDGE

§
§
§
§
§
§
§

Civil Action No. _____

LIST OF ALL COUNSEL OF RECORD

Party

Attorney(s)

Humberto Roque Benavides and Humberto A.
Benavides A/N/F M.E.B., Minor

Gene S. Hagood
State Bar No. 08698400
Joel Joseph
State Bar No. 24106153
Jessie J. Ormand
State Bar No. 24098209
Ryan King
State Bar No. 24073263
LAW OFFICES OF GENE S. HAGOOD
1520 E. Highway 6
Alvin, Texas 77511
Telephone: 281-331-5757
Facsimile: 281-331-1105
firm@h-nlaw.com

Tony Antony Baldrige

Mark A. Lindow
Southern District No. 12777
LINDOW STEPHENS TREAT LLP
One Riverwalk Place
700 N. St. Mary's Street, Suite 1700
San Antonio, Texas 78205
Telephone: 210-227-2200
Facsimile: 210-227-4602
mlindow@lstlaw.com